

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

BENJAMIN ROBERT GALLEGOS,

Plaintiff,

v.

R. FERNANDEZ, *et al.*,

Defendants.

Case No. 2:24-cv-1786-DAD-JDP (P)

ORDER

Plaintiff, a state inmate proceeding without counsel, has filed a civil rights action pursuant to 42 U.S.C. § 1983. The court previously screened plaintiff's complaint pursuant to 28 U.S.C. § 1915A(a). ECF No. 7. The court found that the amended complaint stated cognizable Eighth Amendment claims against three Doe defendants, but that all other claims were deficiently pled. *Id.* Plaintiff was granted thirty days to advise the court whether he intended only to proceed on only the complaint's cognizable claims or file an amended complaint. *Id.*

Plaintiff timely notified the court that he wishes to proceed only with his viable claims against the Doe defendants. Because an unknown person cannot be served until he or she is identified by name, service cannot be initiated against Doe defendants at this time. The court will therefore provide plaintiff with a signed subpoena form so that he can seek documents from CDCR or other appropriate entity that will reveal the names of the Doe defendants. Within thirty

1 days of this order, plaintiff shall complete the provided form subpoenas and return it to the court.  
2 Upon receipt, the court will direct the U.S. Marshal to serve the subpoena. Should plaintiff  
3 succeed in learning the identify the Doe defendants, he must move pursuant to Federal Rule of  
4 Civil Procedure 15 to amend his complaint to add the identified individual as a defendant.  
5 Plaintiff is warned that should his motion to amend raise issues as to the applicable statute of  
6 limitations, he must satisfy the requirements of Rule 15(c). *See* Fed. R. Civ. P 15(c) (explaining  
7 the circumstances under which an amended complaint relates back to the date of the original  
8 pleading).

9 In accordance with the above, it is hereby ORDERED that:

10 1. The Clerk of Court is directed to provide plaintiff with three a signed but otherwise  
11 blank subpoena duces tecum form with this order. *See* Fed. R. Civ. P. 45(a)(3).

12 2. Within thirty days of the date of this order, plaintiff shall complete and return the  
13 provided subpoenas. The subpoena shall identify with particularity the materials it commands to  
14 be produced. Upon receipt of completed subpoena form, the court will direct the U.S. Marshal to  
15 serve the subpoena.

16 IT IS SO ORDERED.

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18 Dated: November 6, 2024

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20 JEREMY D. PETERSON  
21 UNITED STATES MAGISTRATE JUDGE  
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